

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4832

IN THE MATTER OF:

Served May 8, 1996

Application of SPARTEN TOURS, INC.,)
for a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-96-12

By application accepted for filing March 22, 1996, Sparten Tours, Inc., a Maryland corporation, seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District.

Notice of this application was served on March 26, 1996, in Order No. 4798, and applicant was directed to publish further notice in a newspaper and file an affidavit of publication. Applicant complied. The application is unopposed.

SUMMARY OF EVIDENCE

The application includes information regarding, among other things, applicant's corporate status, facilities, proposed tariff, finances, and regulatory compliance record.

Applicant proposes commencing operations with three coaches. Applicant's proposed tariff contains hourly rates, mileage rates and transfer rates.

Applicant filed a balance sheet as of December 31, 1995, showing assets of \$161,881; liabilities of \$72,000; and equity of \$89,881. Applicant's projected operating statement for the first twelve months of WMATC operations shows WMATC operating income of \$20,000; other operating income of \$230,000; expenses of \$205,872; and net income of \$44,128.

Applicant certifies it has access to, is familiar with, and will comply with the Compact, the Commission's rules and regulations, and United States Department of Transportation regulations relating to transportation of passengers for hire. Applicant further certifies that neither applicant nor any person controlling, controlled by, or under common control with applicant has any control relationship with a carrier other than applicant.

DISCUSSION

This case is governed by the Compact, Title II, Article XI, Section 7(a), which provides in relevant part that:

. . . the Commission shall issue a certificate to any qualified applicant . . . if it finds that --

(i) the applicant is fit, willing, and able to perform [the] transportation properly, conform to the provisions of this Act, and conform to the rules, regulations, and requirements of the Commission; and
(ii) that the transportation is consistent with the public interest.

The burden is on applicant to establish its financial fitness, operational fitness, and regulatory compliance fitness.¹ We find applicant financially and operationally fit on the basis of the evidence summarized above. Our consideration of applicant's compliance fitness, however, must factor-in applicant's history of Compact violations.

Applicant was the subject of an investigation earlier this year in which it was assessed a \$500 civil forfeiture for knowingly and willfully violating the Compact by transporting passengers for hire between points in the Metropolitan District without a certificate of authority on seven separate occasions from June 1995 through November 1995.² Applicant has paid the \$500.

An evaluation of compliance fitness is prospective in nature.³ When an applicant has a record of violations, the Commission considers the following factors in assessing the likelihood of future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether applicant has made sincere efforts to correct its past mistakes, and (5) whether applicant has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.⁴

Applicant committed seven violations in the latter half of 1995. Although relatively few in number, these violations are serious, and we find no mitigating circumstances. On the other hand, applicant has corrected its past mistakes by paying the \$500 civil forfeiture, and there is no evidence in the record of any ongoing operations in the Metropolitan District. The record, therefore, supports a finding of prospective compliance fitness.

CONCLUSION

Based on the evidence in this record, the Commission finds applicant to be fit, willing, and able to perform the proposed

¹ In re Capitol Bus Rental, Inc., t/a Capitol Tours, No. AP-95-50, Order No. 4719 (Dec. 14, 1995).

² In re Sparten Tours, Inc., aka Sparten Tours, Sparten Bus Tours, Inc., and Sparten Bus World, No. MP-96-03, Order No. 4775 (Feb. 27, 1996).

³ Order No. 4719.

⁴ Id.

transportation properly and to conform with applicable regulatory requirements. The Commission further finds that the proposed transportation is consistent with the public interest.

THEREFORE, IT IS ORDERED:

1. That Sparten Tours, Inc., 6666 Walker Mill Road, Capitol Heights, MD 20743, is hereby conditionally granted, contingent upon timely compliance with the requirements of this order, authority to transport passengers in irregular route operations between points in the Metropolitan District.

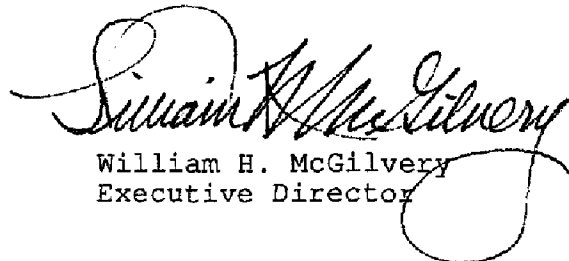
2. That applicant is hereby directed to file the following documents with the Commission: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) an equipment list stating the year, make, model, serial number, vehicle number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) evidence of ownership or a lease as required by Commission Regulation No. 62 for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61, for which purpose WMATC No. 341 is hereby assigned.

3. That upon timely compliance with the requirements of the preceding paragraphs and acceptance of the documents required by the Commission, Certificate of Authority No. 341 shall be issued to applicant.

4. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

5. That unless applicant complies with the requirements of this order within 30 days from the date of its issuance, or such additional time as the Commission may direct or allow, the grant of authority herein shall be void and the application shall stand denied in its entirety effective upon the expiration of said compliance time.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER AND LIGON:


William H. McGilvery
Executive Director

